

## HB0143S02 compared with HB0143

~~text~~ shows text that was in HB0143 but was deleted in HB0143S02.

text shows text that was not in HB0143 but was inserted into HB0143S02.

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Representative LaVar Christensen proposes the following substitute bill:

### PROHIBITION ON TATTOOING OF MINORS

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: LaVar Christensen**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill modifies the Utah Criminal Code regarding the tattooing of minors.

##### Highlighted Provisions:

This bill:

- ▶ prohibits the tattooing of persons younger than ~~18 years of age; and~~  
14 years of age;
- ▶ provides that a minor 14 years of age or older may obtain a tattoo, but only if the minor's parent or guardian executes a written authorization prior to the tattooing and in the presence of the person who is to perform the tattooing;
- ▶ exempts tattoos performed for medical purposes; and
- ▶ establishes a civil cause of action for recovery of the costs of removal of a tattoo performed unlawfully on a ~~person younger than 18 years;~~ minor in violation of

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~~{age}~~ these provisions.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**76-10-2201**, as last amended by Laws of Utah 2013, Chapter 329

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **76-10-2201** is amended to read:

#### **76-10-2201. Unlawful body piercing and tattooing of a minor -- Penalties.**

(1) As used in this section:

(a) "Body piercing" means the creation of an opening in the body, excluding the ear, for the purpose of inserting jewelry or other decoration.

(b) "Consent of a minor's parent or legal guardian" means the presence of a parent or legal guardian during the performance of body piercing or tattooing upon the minor after the parent or legal guardian has provided:

(i) reasonable proof of personal identity and familial relationship; and

(ii) written permission signed by the parent or legal guardian authorizing the performance of body piercing or tattooing upon the minor.

(c) "Medical tattoo" means a tattoo performed:

(i) for the purpose of reconstructive surgery or for medical procedures; and

(ii) at the direction of a physician licensed under Title 58, Chapter 67, Utah Medical

Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

~~(c)~~ (d) "Minor" means a person younger than 18 years of age who:

(i) is not married; and

(ii) has not been declared emancipated by a court of law.

~~(d)~~ (e) "Tattoo" means to fix an indelible mark or figure upon the body by inserting a pigment under the skin or by producing scars, but does not include a medical tattoo.

(2) A person is guilty of unlawful body piercing of a minor if the person performs or

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offers to perform a body piercing:

- (a) upon a minor;
- (b) without receiving the consent of the minor's parent or legal guardian; and
- (c) for remuneration or in the course of a business or profession.

~~[(3) A person is guilty of unlawful tattooing of a minor if the person performs or offers to perform a tattooing.]~~

~~[(3)(a)] upon a minor.]~~

~~[(3)(b)] without receiving the consent of the minor's parent or legal guardian; and [(3)]~~

~~[(c)] for remuneration or in the course of a business or profession [(3)]~~

~~[(4)]~~

(3) A person may not knowingly perform a tattoo on a minor under the age of 14 years.

(4) A person may not knowingly perform a tattoo on a minor between the ages of 14 and 18 years unless the person obtains the prior written informed consent of the minor's parent or legal guardian. The minor's parent or legal guardian shall execute the written informed consent required under this Subsection (4) in the presence of the person performing the tattooing, or in the presence of an employee or agent of the person performing the tattooing.

~~[(4)] (5) A person is not guilty of Subsection (2) [or] (3), or (4) if the person:~~

- (a) has no actual knowledge of the minor's age; and
- (b) reviews, photocopies, and retains the photocopy of an apparently valid driver

license or other government-issued picture identification for the minor that expressly purports that the minor is 18 years of age or older before the person performs the body piercing or tattooing.

~~[(5)] (6) (a) A person who violates Subsection (2) [or], (3), or (3)(4) is guilty of a class B misdemeanor.~~

(b) The owner or operator of a business in which a violation of Subsection (2) [or], (3), or (3)(4) occurs is subject to a civil penalty of [\$1,000] \$1,500 for each violation.

(6)(7) (a) A person upon whom an actor performs a tattoo in violation of Subsection (3) or (4) has a civil cause of action under Subsection (6)(7)(b) against the actor and against the owner or operator of the business in which the violation of Subsection (3) or (4) is committed.

(b) The person under Subsection (6)(7)(a) may bring the civil cause of action within

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three years after the person becomes 18 years of age for the costs of:

(i) removal of all tattoos performed under Subsection (~~†6†7~~)(a); and

(ii) related attorney fees and court costs.

(c) Recovery of costs under this Subsection (~~†6†7~~) is in addition to the civil penalty under Subsection (~~†5†6~~)(b).

(d) The civil cause of action under Subsection (~~†6†7~~)(a) may not be waived or in any manner invalidated by any contract or agreement with the actor performing the tattoo or the owner or operator of the business in which the tattoo is performed.

(e) A criminal action need not be brought against an actor in order for the actor to be civilly liable under this section.

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**Legislative Review Note**

~~as of 12-4-14 1:16 PM~~

~~Office of Legislative Research and General Counsel~~